



PATENT
Attorney Docket No. MDS-030

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Kaufman et al.
SERIAL NO.: 10/099,881 GROUP NO.: 3737
FILING DATE: March 15, 2002 EXAMINER: Not Yet Assigned
TITLE: IMAGE PROCESSING USING MEASURES OF SIMILARITY

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Commissioner for Patents
Washington, DC 20231

**PETITION FOR USE OF COLOR PHOTOGRAPHS AND COLOR DRAWINGS AS
FORMAL DRAWINGS UNDER 37 C.F.R. § 1.84(a)(2) AND (b)(2)**

Applicants submit this petition to request acceptance of color photographs and color drawings as formal drawings in the above-referenced nonprovisional U.S. patent application. As required under 37 C.F.R. § 1.84(a)(2) and (b)(2), Applicants herein include:

- an explanation regarding why the color drawings are necessary;
- an explanation regarding why the color photographs are necessary;
- the fee set forth in § 1.17(h);
- three (3) sets of color drawings;
- three (3) sets of color photographs;
- a black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in the color drawings; and
- a black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in the color photographs.

The paragraph required by § 1.84(a)(2)(iv) is already present in the brief description of the drawings in the Specification of the above-referenced nonprovisional U.S. patent application.

1. Explanation regarding why the color drawings are necessary: Color drawings appear in FIG. 7B, FIG. 9B, FIG. 11B, FIG. 11D, FIG. 16B, FIG. 17B, FIG. 18B, and FIG. 21C of the above-referenced application. These drawings include graphs with curves that are color-coded to correspond with segmented regions of the color photographs in FIG. 7A,

FIG. 9A, FIG. 11A, FIG. 11C, FIG. 16A, FIG. 17A, FIG. 18A, and FIG. 21D, respectively. Due to the relatively large number of curves and due to the spatial orientation of the regions of the photographs with which those curves correspond, alternative presentation using only black and white drawings is impractical. Thus, Applicants respectfully submit that color drawings are the only practical medium by which to disclose in a printed utility patent the subject matter to be patented, and therefore, the color drawings should be permitted for use as formal drawings.

2. Explanation regarding why the color photographs are necessary: Color photographs appear in FIG. 2A, FIG. 2A-1, FIG. 2B, FIG. 4A, FIG. 4B, FIG. 4C, FIG. 4D, FIG. 7A, FIG. 9A, FIG. 11A, FIG. 11C, FIG. 13, FIG. 14A, FIG. 14B, FIG. 15A, FIG. 15B, FIG. 16A, FIG. 17A, FIG. 18A, FIG. 19, FIG. 20A, FIG. 20B, FIG. 21A, FIG. 21B, and FIG. 21D of the above-referenced application. These color photographs are depictions of *in vivo* cervical tissue. § 1.84(b)(2) states that color photographs will be accepted in utility patent applications if the conditions for accepting color drawings [§ 1.84(a)(2)] and black and white photographs [§ 1.84(b)(1)] are satisfied. § 1.84(b)(1) states, "For example, photographs or photomicrographs of: ... *in vivo* imaging ... are acceptable." Since all the photographs in the figures listed above depict *in vivo* cervical tissue, the requirement for acceptance of black and white photographs is satisfied. C.F.R. § 1.84(a)(2) requires that color drawings be necessary, "as the only practical medium by which to disclose the subject matter sought to be patented in a utility or design patent application..." Since the invention comprises methods of processing images of tissue, including color images of tissue, color photographs are the only practical medium by which to disclose in a printed utility patent the subject matter to be patented. Also, as discussed above, color photographs in FIG. 7A, FIG. 9A, FIG. 11A, FIG. 11C, FIG. 16A, FIG. 17A, FIG. 18A, and FIG. 21D, have segmented regions that correspond with color-coded curves in the graphs of FIG. 7B, FIG. 9B, FIG. 11B, FIG. 11D, FIG. 16B, FIG. 17B, FIG. 18B, and FIG. 21C, respectively. Due to the relatively large number of curves and due to the spatial orientation of the regions of the photographs with which those curves correspond, Applicants submit that color photographs are the only practical medium by which to disclose in a printed utility patent the subject matter to be patented. Applicants also

submit that the photos are of sufficient quality so that all details are reproducible in a printed patent. All other requirements of § 1.84(a)(2) are satisfied in this Petition. Since all items of § 1.84(a)(2)(i)-(iv) and § 1.84(b)(1) are satisfied, then § 1.84(b)(2) is satisfied. Thus, Applicants respectfully request that the color photographs described above be accepted in the aforementioned utility patent application.

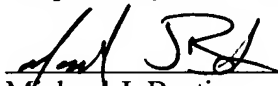
3. In accordance with § 1.84(a)(2) and (b)(2), this petition is accompanied by three (3) sets of color drawings and three (3) sets of color photographs.
4. In accordance with § 1.84(a)(2) and (b)(2), this petition is accompanied by a set of black and white photocopies that accurately depict, to the extent possible, the subject matter shown in the color drawings and color photographs.
5. In accordance with § 1.84(a)(2) and (b)(2) and § 1.17(h), this petition is accompanied by a check for the petition filing fee of \$130.00. However, should any other fees be required for this petition to be considered, the Commissioner is authorized to charge deposit account number 20-0531.

Applicants submit that all requirements of § 1.84(a)(2) and (b)(2) and § 1.17(h) are satisfied, and Applicants respectfully request that the color drawings and color photographs be accepted as formal drawings in the above-referenced nonprovisional U.S. patent application.

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Respectfully submitted,



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